

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Satellite Home)	CS Docket No. 00-96
Viewer Improvement Act of 1999)	
)	
Broadcast Signal Carriage Issues)	

To: The Commission

SUPPORTING COMMENTS

The Board of Education of the City of Atlanta, licensee of Station WPBA(TV), Atlanta, Georgia ("WPBA") supports the NAB/ALTV Emergency Petition concerning EchoStar's relegation of some must-carry stations to satellites requiring subscribers to obtain a second dish, for the following reasons:

1. EchoStar offers its Atlanta area subscribers eight local broadcast channels. Seven of those channels are available on its basic "DISH 500" service. One is available only through the installation of a second receiving antenna dish. That one is Station WPBA.¹

2. This situation cannot be what the Commission envisioned. Station WPBA, licensed to Atlanta, is a must-carry signal but is not carried as a part of EchoStar's regular service. Its extensive public television schedule of children's, public affairs, news, and other programming is not available to EchoStar subscribers unless they (a) learn that the station is available through installation of a second dish (not an easy

¹ See <<http://www.dishnetwork.com/content/programming/locals/package/index.asp?viewby=2&packid=9&sortby=1>>.

matter, as noted by the NAB and ALTV), (b) request the second dish, and (c) for most people, stay home from work during an installation window. The scheme also presupposes that the subscriber has room at the receive point for another antenna and is not concerned about the aesthetics of a second dish. The Board believes that its signal is valuable to Atlanta residents. But realistically, not many people are going to go through that process to get one additional signal added to a package of hundreds of program channels.

3. The relegation of Station WPBA to a decidedly inferior tier of carriage obviously hurts the station, which exists to provide service to the community and which relies in large part on memberships for financial support. EchoStar is carrying PBS affiliate Station WGTV, Athens, Georgia as part of its Atlanta primary service, but the two stations provide distinct programming services and are both entitled to carriage. As a federal court of appeals noted when it rejected EchoStar's effort to overturn the must-carry law, "Congress understood that the threat to over-the-air viewers was not the loss of broadcasting as a medium, but the loss of the independent stations needed to provide those viewers with a rich mix of broadcast programming from multiple sources." *Satellite Broadcasting & Communications Ass'n v. FCC*, 2001 WL 1557809 *15 (4th Cir. Dec. 7, 2001). EchoStar's relegation of an urban public television station to a broadcasting ghetto undercuts the policy embodied in the law.

4. EchoStar's practice creates a discriminatory effect and should be ended. WPBA urges the Commission to issue a declaratory ruling to resolve any ambiguity in the rules so as to fully implement the law. It is unfair and against the public interest to deprive the Atlanta audience of its local public television station. It would be intolerable

to permit this state of affairs to continue indefinitely. The requested clarification should be issued as soon as possible.

Respectfully submitted,

THE BOARD OF EDUCATION OF THE CITY
OF ATLANTA

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